IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 1.2.2007.

CORAM

THE HON'BLE MR.JUSTICE R.BALASUBRAMANIAN
and
THE HON'BLE MR.JUSTICE M.JEYAPAUL

Criminal Appeal Nos.1395, 1412 and 1439 of 2004
140, 162, 195, 290 of 2005,
1032 of 2006 and 15 of 2007 & 669/05

1. Murthy
2. Dhanapal — Appellants in Crl.A.No.1395/2004, Accused Nos. 17 &18

Sankar — Appellant in Crl.A.No.1412/2004, Accused Nos.11

Kalaivanan — Appellant in Crl.A.No.1439/2004, Accused Nos. 7

Koola Nagarajan alias Nagarajan — Appellant in Crl.A.No.140/2005, Accused Nos. 1

Anbarasan — Appellant in Crl.A.No.162/2005, Accused Nos. 10

Parameswaran — Appellant in Crl.A.No.195/2005, Accused Nos. 3

Saminathan — Appellant in Crl.A.No.290/2005, Accused Nos. 13

Surendran alias Kundappan — Appellant in Crl.A.No.1032/2006, Accused Nos. 6

Saravanan — Appellant in Crl.A.No.15/2007, Accused Nos. 9

vs.

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State rep. By
Inspector of Police,
Omalur Police Station
Cr.No.1350/97) Respondent

Crl.A.No.669 of 2005

State rep. By
Inspector of Police,
Omalur Police Station
Cr.No.1350/97) Appellant

vs.

1. Lakshmanan A4

2. Konar Saravanan alias Subramani A5

3. Kamaraj A8

4. Selvam A12

5. Mottaiyan @ Sambu @ Shanmugam A14

6. Karuppiah A15

7. Manoharan A16 Respondents

Criminal Appeals against the Judgment dated 20.10.2004 made in S.C.No.34 of 1999 on the file of the I Additional Sessions Judge, Salem.

For appellant in
Crl.A.Nos.140/2005 : Mr.V.Vibhishnan formalities
Mr.K.Balakrishnan

For appellants in
Crl.A.Nos.195/2005,
1032/2006, 1439/2004,
15/2007, 162/2005 and
290/2005 : Mr.S.Doraisamy, Senior Counsel
for Mr.V.Elangovan

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For appellants in
Crl.A.Nos.1412/2004
and 1395/2004 : Mr.K.V.Sridharan for
Ms.Jayasri Baskar

For respondent in
all the above appeals
and for appellant in
Crl.A.No.669/2005 : Mr.N.R.Elango,
Addl. Public Prosecutor

For respondents in
Crl.A.No.669/2005 : Mr.R.Shanmughasundaram,
Senior Counsel for
Mr.C.M.Gunasekaran for
Mr.V.Purushothaman

COMMON JUDGMENT

(Judgment of the court was delivered by M.JEYAPAUL,J.)

Totally eighteen accused were charged in S.C.No.34 of 1999 on the file of the First Additional Sessions Judge, Salem.

2. A1 to A18 were charged for offences under sections 148, 307 read with 149 and 332 read with 149 IPC, and section 3(1) of the TNPPD Act read with section 149 IPC, A1 to A6 under sections 341 IPC and 3 of Explosive Substances Act, A7 to A18 under section 6 of the Explosive Substances Act, A6 to A11 under section 332 IPC, A1 to A5, A7 to A10 and A12 to A18 under section 332 read with 149 IPC, A1 to A10 and A14 under section 302 read with 34 IPC, A2 to A9 and A11 to A13 and A15 to A18 under section 302 read with 149 IPC, A3, A4 and A8 under section 302 read with 34 IPC, A1, A2, A5 to A7 and A9 to A18 under section 302 read with 149 IPC, A5, A7, A15 and A17 under section 302 read with 34 IPC, A1 to A4, A6, A8 to A14, A16 and A18 under section 302 read with 149 IPC, A2, A6 and A18 under section 302 read with 34 IPC, A1, A3 to A5 and A7 to A17 under section 302 read with 34 IPC, A11, A12, A13, A16 under section 302 read with 34 and A1 to A10, A14, A15, A17 and 18 under section 302 read with 149.

3. The learned Additional Sessions Judge, Salem found A4, A5, A8, A12, A14, A15 and A16 not guilty under any of the aforesaid offences and found A1, A2, A3, A6, A7, A9, A10, A11, A13, A17 and A18 guilty for offences under sections 148, 341 and 302 IPC (five counts) and section 3 of the Explosives Substances Act and sentenced them each to undergo one year rigorous imprisonment for offence under section 148 IPC, one month simple imprisonment for offence under section 341 IPC and life imprisonment and to pay fine of Rs.5000/= each in default to undergo a further period of two years rigorous imprisonment for offence under section 302 IPC (five counts) and to undergo one year rigorous imprisonment for offence under section 3 of the Explosive

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Substances Act. The sentence imposed for offences under sections 148 and 341 IPC and 3 of the Explosive Substances Act were ordered to run concurrently, but, the sentence imposed for offence under section 302 IPC (five counts) were directed to run consecutively. Fine amount imposed was directed to be paid as compensation to the heirs of the victims.

4. Aggrieved by the aforesaid judgment, A17 and A18 prefer Criminal Appeal No.1395 of 2004, A-11 prefers Criminal Appeal No.1412 of 2004, A7 Criminal Appeal No.1439 of 2004, A1 Criminal Appeal No.140 of 2005, A10 Criminal Appeal No.162 of 2005, A3 Criminal Appeal No.195 of 2005, A13 Criminal Appeal No.290 of 2005, A6 Criminal Appeal No.1032 of 2006 and A9 Criminal Appeal No.15 of 2007. Aggrieved by the order of acquittal recorded by the Trial Judge as against A4, A5, A8, A12, A14, A15 and A16, the State has preferred Criminal Appeal No.669 of 2005. The second accused has not preferred any Criminal Appeal before this court.

5. On the side of the prosecution, as many as 35 witnesses were examined and 107 documents and 39 Material Objects were marked. On the side of the defence, 13 witnesses were examined and 17 documents were marked. One K.K.Palanisamy, Additional Superintendent of Police was examined as court witness and four documents were marked as Court Exhibits.

6. The case, in brief, of the prosecution, as unfolded by the witnesses examined on their side during the course of Trial, is as follows:-

Mahaboob John, PW1, Annadurai, PW2 and Tamilarasan, PW3 accompanied G.Natarajan, Sub Inspector of Police (since deceased) attached to Mettur Police Station escorting the remand accused Durai alias Duraian, Murugan, Chinna Jega alias Arokiasamy, Periya Jega alias Jegadeesan and Raja concerned in Crime No.334 of 1997 on the file of Mettur Police Station from Salem Sub Jail to the Court of the learned Judicial Magistrate I, Mettur for the purpose of remand on 29.10.1997. All of them went to Sub Jail, Salem in the jeep bearing registration number TN 27 G 1013 driven by Tamilarasan, PW3 and having taken the aforesaid remand accused concerned in Crime No.334 of 1997 on the file of the Mettur Police Station proceeded via Omalur to Mettur and after the order of remand was passed by the learned Judicial Magistrate I, Mettur they were returning to Salem via Omalur. At about 4.45 pm on the said day, when the vehicle was crossing the railway gate at Omalur, there was a speed breaker and as a result of which PW3 had to slow down the vehicle. At that point of time, one Koola Nagarajan A1, Saravanan A9 and Murugesan A2 along with more than 15 persons came armed with lethal weapons and intercepted the vehicle. Country bomb was thrown at the vehicle and it exploded in front of the vehicle. The aforesaid persons having entered into the vehicle attacked the remand accused indiscriminately. When the deceased Natarajan, Sub Inspector of Police attempted to shoot the assailants, he was attacked all over his body and the gun he held was also snatched away. The remand accused were dragged out of the vehicle and were attacked indiscriminately which resulted in their instantaneous death. A1, Koola Nagarajan, sped away by Yamaha motorcycle. P.Ws.1 to 3 also sustained injury in the occurrence.

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7. PW1 saw the first accused speeding away in Yamaha vehicle. Thereafter, he got lift in a TVS 50 moped and proceeded towards Mettur. He found Mr.Promoth Kumar (PW34), Superintendent of Police, Salem coming from Mettur. He stopped his vehicle and informed him of the occurrence. Thereafter, PW34 proceeded to the scene of occurrence along with PW1 in his vehicle and having found the assailants taking to heels, he along with other police officials chased them. One of the accused threw a country bomb and as a result of which PW34 and other police officials sustained injuries. He shot the assailants and also ordered other police officials to shoot them. As a consequence, three persons were shot dead.

8. R.Chandrasekaran, Head Constable (PW14) who was a part of the team of the Superintendent of Police apprehended A9. In the said process, he also sustained injuries.

9. The Sub Inspector of Police, Natarajan, since deceased, was retrieved from the scene of occurrence by one Selvaraj, Police Constable and was admitted to Government Hospital, Omalur for treatment. Dr.John Gurupatham, PW30, admitted the said Natarajan at about 5.20 pm on 29.10.1997, examined him and found him sustained some simple injuries. The said Natarajan informed PW30 that he was attacked by four known persons and some other unknown persons at about 4.45 pm on 29.10.1997. The wound certificate issued to Natarajan is marked as Ex.P96.

10. Esak, PW17 received information about the occurrence and was directed to go to the scene of occurrence at about 5.00 pm on 29.10.1997. He descended at the scene of occurrence at about 6.45 pm on the same day and having retrieved P.Ws.1 to 3 therefrom admitted them to Government Hospital, Omalur at 7.00 pm on the same day. Dr.Kalyanaraman, PW27, having admitted P.Ws.1 to 3 for treatment, issued wound certificates Exs.P69, P70 and P71 classifying the injuries they sustained as simple in nature.

11. GOWTHAMAN (PW32), Sub Inspector of Police attached to Omalur Police Station, having received information Ex.P99 from Government Hospital, Omalur, proceeded to the Hospital at about 6.30 pm on 29.10.1997 along with Pachamuthu, PW24, Head Constable attached to the said Police Station. As the Sub Inspector of Police, Natarajan, was not in a position to script the first information, Pachamathu, PW24 reduced into writing the oral statement of the said Natarajan who was taking treatment. On the basis of the first information report, PW59, given by the Sub Inspector of Police, PW32 registered a case in Crime No.1350 of 1997 for offences under sections 147, 148, 341, 332, 307 and 302 IPC and section 5(b) of the Explosive Substances Act and prepared printed FIR, Ex.P100.

12. As per the instructions of the Deputy Superintendent of Police, the Inspector of Police Mr.P.Raju, PW35, having received a copy of the FIR at

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about 6.15 pm on the said day, proceeded to the scene of occurrence. He also registered a case in Crime No.1351 of 1997 for offences under sections 147, 148, 341, 332 and 307 IPC and section 5(3) of the Explosive Substances Act on the basis of the first information report given by the Superintendent of Police Pramoth Kumar (PW34) in respect of the second limb of the occurrence where three assailants were shot dead by the police officials. Both FIR and printed FIR were despatched to the learned Judicial Magistrate, Omalur. R.Chandrasekaran, PW14, Head Constable produced the accused Saravanan A9 apprehended by him when he was fleeing and thereafter he was arrested by PW35. Blood stained shirt M.O.25 and blood stained pants M.O.26 were recovered from him under form 95.

13. The second accused was produced on apprehension by the Head Constable Anandan, PW13 and a shirt M.O.27 and a lungi M.O.28 were also recovered from him under form 95.

14. At about 8.15 pm on the said day, PW35 proceeded to the scene of occurrence and prepared observation mahazar in the presence of the Village Administrative Officer. He also drew rough sketch Ex.P103 reflecting the scene of occurrence. The damaged jeep was recovered by him at 9.00 pm on the said day. Gun powder, M.O.1, Bullets, M.O.5 and M.O.6, Country Bomb, M.O.7, glass pieces, M.O.8, blood stained mud, M.O.9 and sample mud, M.O.10 were also recovered from the scene of occurrence in the presence of witnesses. Siddique Basha, PW31, photographer was engaged to take photographs of the scene of occurrence. A10, Anbarasan, was arrested at about 10.30 am on 13.10.1997 and on the basis of the admissible portion in his confession statement, knife was recovered at Chingalapatti Tank. The apparels worn by A10 were also recovered from him.

15. Dr.Vallinayagam, PW23 conducted post mortem examination on the dead body of the remand accused Murugan. He, having found as many as ten cut injuries all over his body, opined that he died of shock and haemorrhage due to multiple injuries and issued post mortem certificate Ex.P50. He also conducted post mortem examination on the dead body of the remand accused Durai alias Duraian. He found as many as 13 cut injuries and subdural and subarachnoid haemorrhage. He opined that the said Durai alias Duraian had died due to shock and haemorrhage on account of multiple injuries in the post mortem certificate Ex.P52. He also conducted autopsy on the dead body of the remand accused Raja and having found as many as 16 cut injuries and subdural and subarachnoid haemorrhage on both cerebral haemorrhage opined that he had died of head injuries in the post mortem certificate, Ex.P54. He conducted post mortem examination on the dead body of Chinna Jaha alias Arokiasamy and having found as many as 12 cut injuries and subdural and subarachnoid haemorrage over both cerebral hemisphere, opined that he had died of head injuries in the post mortem certificate, Ex.56. He also conducted post mortem examination on the dead body of Jagan alias Jagadeesan at about 12.05 pm on 13.10.1997 and having found as many as 13 cut injuries and subdural and subarachnoid haemorrage over both cerebral hemisphere, opined that he had died of head injuries in the post mortem certificate, Ex.58.

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16. The post mortem Constables recovered apparels and other articles found on the body of the aforesaid remand prisoners after the post mortem examination was over and entrusted them to PW35 for the purpose of investigation in this matter. On 4.11.1997, at about 7.00 am, PW35 arrested A4 Lakshmanan and on the basis of the admissible portion in the confession statement given by him, blood stained billhook was recovered at his instance.

17. On 6.11.1997, at about 1.30 pm, A8 Kamaraj, A12 Selvam, A14 Shanmugam, A15 Karuppiah, A16 Manoharan, A17 Moorthy and A18 Dhanapal, were arrested and on the basis of the confession statement given by each of the accused, arms and ammunitions from the respective accused were recovered under the cover of relevant mahazars.

18. On 10.11.1997, at about 9.30 am, A5 Saravanan, A6 Surendran and A11 Sankar, were arrested in the presence of witnesses. On the basis of the confession statements given by them, the weapons of offence were recovered at their instance. On the basis of the requisition given by the Inspector of Police PW35, the learned Judicial Magistrate Muthusamy (PW26), having observed all the formalities, conducted Test Identification Parade on 12.11.1997 and 25.11.1997. P.Ws.1 to 3 were required to identify the accused viz., A2, A4, A8, A9, A10, A12, A15, A16, A17 and A18 in the Identification Parade that was held on 12.11.1997. PW1 and PW2 identified all the aforesaid accused except A4. PW3 identified all the aforesaid accused in the Test Identification Parade that was held on 12.11.1997. Again on 25.11.1997, PW1 could identify A6 and A11, but, could not identify A5. P.Ws.2 and 3 could identify A5, A6 and A11. As A1 was arrested later in point of time, he was not subjected to Test Identification Parade. Likewise, A3, A7 and A13 also were not subjected to Test Identification Parade. The proceedings of the Test Identification Parade conducted by the learned Judicial Magistrate Muthusamy PW26 were marked as Exs.P66 and P68.

19. A3 Paramaswaran, who was involved in another Crime No.72 of 1998 on the file of Omalur Police Station, was arrested on 21.1.1998 at about 6.30 pm. On 1.2.1998 at about 3.00 pm, A13 Saminathan, who was involved in another Crime No.109 of 1998 on the file of Omalur Police Station, was arrested for the purpose of this case. On the basis of the confession statement given by him, a billhook was recovered at his instance. On 12.2.1998, at about 2.30 pm, A1 Nagarajan, who was involved in another Crime No.156 of 1998 on the file of Omalur Police Station, was arrested and on the basis of the confession statement given by him, Yamaha motorcycle and billhook were recovered at his instance. PW4 Kuppusamy, PW5 Govindaraj and PW6 Lakshmanan have spoken to the role of the accused in the ghastly crime of multiple murders. They could also identify the first accused who participated in the occurrence. PW35 sent all the Material Objects for chemical examination. Having completed the investigation, PW35 laid final report as against the accused.

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20. The incriminating circumstances spoken to by the witnesses examined on the side of prosecution were put to the accused to respond under section 313 Cr.P.C. A4, A8, A12, A14, A16, A17 and A18 have set up a plea of alibi. The other accused have totally denied their role in the commission of murder of the remand accused. On the side of the defence, D.Ws.1 to 13 were examined.

21. DW1 was the President of Navapatti Panchayat during 1996 to 2000. N.R.Dhanapal, DW9 was a Panchayat Councilor. Both of them have spoken to the surrender of A4, A8, A12, A14, A16, A17 and A18 by the public to the Deputy Superintendent of Police who was camping at the Travelers Bungalow at Mettur.

22. Balasubramaniam, DW2 and Nagarajan DW7 who are Labour Union Leaders have deposed to the effect that there was a surrender of the aforesaid accused by the public to the Deputy Superintendent of Police. They have also spoken to the effect that A4, A8, A12, A15 and A16 who worked as contract labourers in the Thermal Plant participated in the strike at Mettur at the time of the alleged occurrence on the fateful day.

23. DW8 deposed that A17 and A18 worked in his field at the time when the occurrence unfolded. Bhuvaneshwari DW3 is none other than the wife of the first accused Nagaraj. She would state that the arrest of A1 was not effected as stated by the prosecution and in fact, A1 was taken away by the police from her residence at Tirupur. She would also state that A1 was manhandled by the investigating sleuths and as a result of which A1 sustained multiple injuries.

24. Jaya, DW4 who is the wife of A14 Shanmugam and Selvi DW5 who is the wife of A12 Selvam have stated that their husbands worked in Thermal Power Station and participated in the strike on the fateful day. Santhi, DW6 would state that she went to the place where the strike was going on and discussed with her husband A4 Lakshmanan about the family problem at the time of occurrence. Mahaesraj, DW10, who is a relative of A7 Kalaivanan, would state that A7 was with him. Vasantha, DW11, mother of A10 Anbarasan would state that A10 was innocent but, the police apprehended him. Vellachi, DW12, the mother of A3 Parameswaran would also state that without any rhyme or reason, A3 was apprehended by the police. Jaya DW13, wife of A8 Kamaraj would state that A8 participated in the strike at the Thermal Plant at the time of occurrence.

25. The Trial Court has chosen to examine the Additional Superintendent of Police as CW1. The wound certificate of PW3 was marked as Ex.C3 and the wound certificate of the deceased Natarajan, Sub Inspector of Police, was marked as Ex.C4.

26. The Trial Court, having thoroughly perused the evidence on record, found that A1, A2, A3, A6, A7, A9, A10, A11, A13, A17 and A18 were members of unlawful assembly armed with lethal weapons and committed an offence punishable under section 148 of the Indian Penal Code and they have also obstructed the police escort jeep from proceeding further on the main road

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and thereby they committed an offence punishable under section 341 of the Indian Penal Code. As the Trial Court was convinced that the aforesaid accused, as per the evidence available on record, used country bombs at the time of occurrence, they were found guilty of an offence punishable under section 3 of the Explosive Substances Act also. The aforesaid accused also were convicted for an offence punishable under section 302 read with 149 IPC (five counts) for the murder of five remand accused. As there was no legal evidence on record to establish the role of individual accused in attempting to murder of P.Ws.1 to 3, they were acquitted of the charge under section 307 IPC. A4, A5 A8, A12, A14, A15 and A16 were relieved of all the charges framed as against them as the prosecution could not establish beyond reasonable doubt their role in the crime alleged against them.

27. Criminal Appeal Nos.1439 of 2004, 195 of 2005 and 290 of 2005:-

A7 has preferred Criminal Appeal No.1439 of 2004, A3 Criminal Appeal No.195 of 2005 and A13 Criminal Appeal No.290 of 2005.

28. Mr.S.Doraisamy, learned Senior Counsel appearing for A7, A3 and A13 would submit that except the omnibus statement of the witnesses examined on the side of prosecution that A7, A3 and A13 also participated in the occurrence, there is no legal evidence to connect the aforesaid accused with the crime. The testimony of the witnesses for the first time before the court without any Identification of them earlier will not stand the legal scrutiny. He would further submit that their names also do not find a place in the First Information Report.

29. Mr.N.R.Elango, the learned Public Prosecutor would submit that though there was no Test Identification Parade conducted so far as A7, A3 and A13 are concerned, inasmuch as witnesses have spoken before the Trial Court to the effect that those accused also participated in the occurrence, conviction recorded by the Trial Court will have to be confirmed.

30. As rightly pointed out by the learned counsel appearing for the appellants, no Test Identification Parade was arranged as far as the aforesaid accused are concerned. It is not the case of the prosecution that A7, A3 and A13 were already known to the prosecution witnesses. It is found from the evidence let in on the side of the prosecution that the occurrence commenced with throwing country bomb in front of the police jeep which escorted the remand prisoners from Mettur to Salem. No specific overtact has been attributed to these accused by any of the prosecution witnesses except the testimony in generic about the role of all the 18 accused in this case. There was no specific identification of these accused during the course of trial also. We genuinely doubt the role of A7, A3 and A13 in the commission of the various offences charged against them by the Trial Court. Therefore, the benefit of doubt is conferred on A7, A3 and A13 as known to law and they are acquitted and as a consequence, Criminal Appeal Nos.1439 of 2004, 195 of 2005 and 290 of 2005 are allowed and A7, A3 and A13 are directed to be set at liberty forthwith.

31. Criminal Appeal Nos.1395 of 2004, 1412 of 2004, 162 of 2005, 1032 of 2006 and 15 of 2007:- Criminal Appeal No.1395 of 2004 is preferred by A17

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and A18, Criminal Appeal No.1412 of 2004 by A11, Criminal Appeal No.162 of 2005 by A10, Criminal Appeal No.1032 of 2006 by A6 and Criminal Appeal No.15 of 2007 by A9.

32. Heard Mr.K.V.Sreedharan, learned counsel appearing for A17, A18 and A11, Mr.S.Doraisamy, learned Senior Counsel appearing for A10, A6 and A9 and Mr.N.R.Elango, learned Additional Public Prosecutor appearing for the State. It is submitted on behalf of A17, A18, A11, A10, A6 and A9 that though these accused were allegedly identified by P.Ws.1 to 3 before the learned Judicial magistrate concerned, only an omnibus testimony to the effect that all the accused participated in the occurrence is found on record. No specific overtact was attributed to A17, A18, A11, A10, A6 and A9 by P.Ws.1 to 3. Further, those accused have specifically stated before the learned Judicial Magistrate, who conducted Test Identification Parade that their photographs were already shown to P.Ws.1 to 3 who were the police officials for the purpose of enabling them to identify the accused. The entire villagers had submitted petitions before the authorities seeking justice on the specific and solid plea that A17 and A18 were also produced by the villagers for the purpose of smooth investigation to be conducted by the investigating officer in this case. The plea of the villagers had fallen on deaf ears. The arrest of A17 and A18 spoken to by the witnesses was only stage-managed, they would further contend.

33. Mr.N.R.Elango, learned Additional Public Prosecutor for the State would earnestly submit that P.Ws.1 to 3 have categorically identified the aforesaid accused not only during the course of Test Identification Parade conducted by the learned Judicial magistrate but also during the course of trial when the accused were in the dock. Without an iota of any material worth mentioning, the defence witnesses have come out with an unbelievable story that A17 and A18 were not at all present at the scene of occurrence. Inasmuch as the place of occurrence and the place where A17 and A18 had allegedly worked in the field could be covered within about 45 minutes. Therefore, there is every possibility for A17 and A18 to arrive at the scene of occurrence from the place of their avocation within a short span of time even assuming for the sake of argument without actually admitting the case of defence that they were engaged otherwise on the date of occurrence. It is his further submission that the Trial Court has rightly rejected the contention of alibi set up by A17 and A18 and the defence of A6, A9, A10 and A-11 that they had been falsely implicated.

34. It is very much pertinent to note that the occurrence had taken place not in the pitch dark, but in a broad day light at about 4.45 pm on Mettur to Omalur Main Road near railway gate over there. P.Ws.1 to 3, police officials, who travelled in the very same escort jeep, have chosen to identify these accused not only before the Identification Parade conducted by the learned Judicial Magistrate but also before the Trial Court.

35. Of course, the First Information Report, Ex.P1 can be used only for the purpose of corroboration or for contradiction of the author thereof when he is examined before the court. Inasmuch as the author had already died,

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the contents thereof cannot be referred to by this court and as a consequence, the First Information Report, Ex.P1 loses its probative value. But, referring to the evidence of Dr.John Gurupatham, PW30, who issued wound certificate, Ex.P96 to the First Informant, Natarajan, we find that he has categorically recorded the version of the deceased Natarajan in Ex.P96 to the effect that the said Natarajan informed him when he was admitted to Government Hospital for treatment that four known persons and some other unknown persons attacked the police escort jeep and committed the crime. It is true that P.Ws.1, 2, 3 and 34 respectively have informed Dr.Kalyanaraman, PW27, when they were admitted to Government Hospital for treatment, that more than ten unknown persons participated in the occurrence and attacked them and caused injuries. The said version of those witnesses is found in the wound certificates, Exs.P69, P70, P71 and P72 issued to those witnesses by PW27. Though the said Natarajan is no more, his version before PW30 cannot be ignored by us. The fact remains that though the accused were not already known to P.Ws.1, 2, 3 and 34, it is found that four persons, who participated in the occurrence, were known to the deceased Natarajan.

36. P.Ws. 1 to 3 have not detailed the physical features of the accused before the investigating officer, but such a deficiency ipso facto cannot be a ground to reject the identification of the accused before the court after properly identifying them during the course of Test Identification Parade.

37. The learned Judicial Magistrate, Shri.Muthusamy, PW26, has chosen to conduct the Test Identification Parade on 12.11.1997 and 25.11.1997 based on the request emanated from PW35. The proceedings of the Test Identification Parade have been marked before the Trial Court as Ex.P66 and P68. On a careful perusal of the testimony of the learned Judicial Magistrate and the aforesaid proceedings recorded by him, it is found that PW1 and PW2 have identified A2, A8, A9, A10, A12, A15, A16, A17 and A18 during the course of Test Identification Parade that was held on 12.11.1997, but, they failed to identify A4 who was also subjected to identification on the said day. In the Test Identification Parade that was held on 25.11.1997, PW1 identified A11 and A6, but, he could not identify A5 but PW2 identified all the three accused viz., A5, A6 and A11 who were subjected to the Test Identification Parade. PW3, on his part, identified A2, A4, A8, A9, A10, A12, A14, A15, A16, A17 and A18 in the Test Identification Parade that was held on 12.11.1997. All the three accused viz., A5, A6 and A11 who were subjected to Test Identification Parade on 25.11.1997 were also identified by PW3.

38. Coming to the criticism levelled against P.Ws.1 to 3 about the identification of the accused before the court in general, we find that they have categorically identified the accused facing trial during the course of Test Identification Parade. They, having specifically referred to the names of those accused during the course of their testimony before the Trial Court, deposed that those accused have been properly identified by them during the course of Test Identification Parade. It is their emphatic assertion that it was only those accused who attacked them with country bomb and annihilated five remand accused who were escorted by them under the stewardship of Natarajan who died subsequently. It is true that P.Ws.1 to 3 have deposed

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during the course of cross-examination that they were not in a position to identify the accused by their names. We cannot shut our eyes to the fact that as many as 18 accused had participated in the occurrence as per the case of the prosecution. Trial has commenced after a lapse of about seven years from the date of occurrence. On a careful perusal of the Test Identification Parade Proceedings, we find that P.Ws.1 to 3 have, in fact, touched the body of the accused and identified them as culprits who authored the crime. The Test Identification Parade had been conducted within a short period of about three weeks. No motive can be attributed to the police officials, P.Ws.1 to 3, who chose to point out their accusing fingers towards the accused herein. The testimony of P.Ws.1 to 3 is found to be completely trustworthy and reliable. Further, we find that A9 was apprehended immediately after the occurrence by PW14. We have no hesitation to accept the evidence of PW14 who has chosen to depose before the Trial Court that A9 was apprehended by him when he was fleeing in the aftermath of the occurrence. DW11 is the mother of A10. She has just spoken about the arrest effected by the police sleuths. A10 had not set up a plea of alibi worth referring to nor had DW11 spoken about the defence of alibi on behalf of A10.

39. A17 and A18 had set up a plea of alibi. DW8 was examined on their side to speak to their absence at the scene of occurrence at the relevant point of time. DW8 is the landlord who leased out his lands to the mother of A18. DW8 has stated before the Trial Court that A17 and A18, on the relevant point of time, were found engaged in the harvest organised by the mother of A18. As per the version of DW8, the mother of A18 was the lessee. She was not examined before the Trial Court. Therefore, we are not inclined to accept the plea of alibi set up by A17 and A18. A6 and A11 had not set up any plea of alibi. No evidence also was let in on their side.

40. The allegation as against the prosecution that photographs of the accused were taken and the same were shown to P.Ws.1 to 3 for the purpose of identification is found not believable in view of the fact that those accused had not chosen to inform the learned Judicial Magistrate who remanded them to judicial custody about such undue exercise undertaken by the police sleuths. A mere suggestion put to the witnesses and the response of the accused found in the proceedings undertaken by the Trial Court under section 313 Cr.P.C., without any basis or foundation, cannot substitute the stature of evidence. The learned Judicial Magistrate has deposed before the court that he, having completely adhered to all the formalities required for conducting the Test Identification Parade, embarked upon such an exercise. Of course, some of the prisoners who had been associated with the suspected culprits for the purpose of conducting the Test Identification Parade were in the age group of 26 and 40. Though there is variation in the age group of the prisoners associated with the suspected accused, that cannot be a valid ground to reject the otherwise acceptable Test Identification Parade conducted by the learned Judicial Magistrate following all formalities. The Trial Court has rightly placed reliance on the evidence of PW1 to PW3. There is no merit in these appeals. For the foregoing reasons, we are inclined to confirm the verdict of the Trial Court convicting A6, A9, A10, A11, A17 and A18.

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41. Criminal Appeal No.669 of 2005:-

This appeal is preferred by the State as against the order of acquittal recorded by the Trial Judge as against A4, A5, A8, A12, A14, A15 and A16.

42. The learned Additional Public Prosecutor appearing for the State would vehemently submit that the Trial Court has wrongly recorded acquittal inspite of the fact that P.Ws.1 to 3 have chosen to identify the aforesaid accused not only when Test Identification Parade was conducted but also when they were called upon to identify them during the course of trial. The defence evidence adduced on the side of the aforesaid accused who have set up the defence of alibi does not inspire judicial confidence. Such cock and bull story brought before the court by the accused who are facing a charge of commission of heinous crime cannot be accepted by the court of law. The surrender theory spoken to by the defence witnesses does not in any way help the case of the defence inasmuch as the prosecution has cogently come out with reliable testimony to show that they also did participate in the crime, he would further submit.

43. Mr.C.D.Johnson, Advocate was appointed as amicus curie from the Legal Aid Panel for the accused A4, A5, A8, A12, A14, A15 and A16 since the cause list did not reflect the name of any counsel who entered appearance for them.

44. The learned counsel Mr.C.D.Johnson submitted when we heard him originally on 4.1.2007 at length that the prosecution has come out with an artificial version as though P.Ws.1 to 3 could identify the assailants in the midst of the smoke which emanated from a country bomb exploded in front of the police escort jeep. The Test Identification Parade conducted in this case is a farce inasmuch as the police officials had an access to the identity of these accused subsequent to the alleged date of arrest and prior to the date of conducting the Test Identification Parade. The defence testimony would clinchingly establish that the accused did participate in the strike that was held against the administration of the Thermal Power Plant at Mettur. A very vague evidence is found on record to show that all the accused participated in the occurrence. No specific reference could be made by any of the witnesses examined before the Trial Court about the role of these accused. Therefore, the accused have been rightly acquitted by the Trial Court, he would further contend.

45. Mr.C.M.Gunasekaran, a learned Member of the Bar made a mention in the open court on 9.1.2007 informing us that on behalf of the aforesaid accused, a Member of the Bar had already entered appearance. Of course, we find that the Registry had failed to note in the cause list the appearance entered by the learned Member of the Bar. Therefore, considering the request made by the learned counsel seeking re-hearing of the matter on his behalf, we directed the case again to be listed before us on 11.1.2007. Accordingly, the case was again listed on 11.1.2007 and we heard the submission made by the learned Senior Counsel Mr.Shanmugasundaram.

46. The learned Senior Counsel Mr.Shanmugasundaram appearing for the

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aforesaid accused would contend that the Test Identification Parade was not properly conducted by the learned Judicial Magistrate. The accused had come out with a revelation when they were examined under section 313 Cr.P.C., that they were not only shown to the witnesses, but, their photographs were meticulously taken while they were taken to the learned Judicial Magistrate for the purpose of remand. The defence witnesses have categorically spoken to the fact that the accused herein served as contract labourers under a contractor in Thermal Power Plant, Mettur and participated in the strike at the relevant point of time and were surrendered before the Deputy Superintendent of Police for the purpose of smooth investigation of the case. Therefore, the acquittal recorded by the learned Trial Judge for the aforesaid accused does not warrant interference, he would further contend.

47. The Supreme Court of India in BINAY KUMAR SINGH V. STATE OF BIHAR (1997 SCC (Cri.) 333) has categorically declared that strict proof is required for establishing the plea of alibi and the burden of proof is very heavy on the accused to establish the defence of alibi. In RAJESH KUMAR v. DHARAMVIR (1997 SCC (Cri.) 591) the Supreme Court has observed that it is trite that a plea of alibi must be proved with absolute certainty so as to completely exclude the presence of the persons concerned at the time when and the place where the incident took place.

48. The fact remains that A4 could not be identified either by PW1 or by PW2 during the course of Test Identification Parade conducted by the learned Judicial Magistrate. PW1 miserably failed to identify A5 during the course of such Identification Parade. Jaya, DW4, is the wife of A14 Shanmugam, Selvi, DW5 is the wife of A12 Selvam and Santhi, DW6 is the wife of A4 Lakshmanan. They have spoken in one voice unanimously that A4, A5, A8, A12, A14, A15 and A16, who served as contract labourers under a contractor in Thermal Power Plant, Mettur, did participate in the strike and on the date of occurrence, between 2.00 pm and 5.00 pm, those accused were seen by them at the strike venue in Mettur. They have also emphatically stated before the court that all the seven accused had been produced by the villagers before the Deputy Superintendent of Police, who camped at the Travellers Bungalow in Mettur.

49. We will have to see whether there is any corroboration for such testimony of the defence witnesses. DW1 is the President of Navapatti Panchayat. She speaks to the surrender of the above seven accused on 6.11.1997 before the Deputy Superintendent of Police by the villagers. She also refers to the petition sent by the villagers to the authorities in order to find out the truth by the investigating sleuth. DW2 is the Secretary of the Labour Union formed for the labourers in Thermal Power Plant, Mettur. He has clearly deposed before the court that all the seven accused referred to above worked under a Contractor in Thermal Power Plant, Mettur and they did participate in the strike from 23.10.1997 to 31.10.1997. The wives of these accused used to bring foodstuff for the striking workers. He has also stated before the Trial Court about the surrender of the said accused to the Deputy Superintendent of Police at Mettur and the petitions submitted before various authorities by the public seeking justice. DW7 is an INTUC Labour Union Leader. He has spoken to the participation of A4 and A12, who belong to his

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union in the strike on the fateful day. He has also spoken to the surrender of the accused and the petitions emanated from the public to ventilate their grievance. DW9 is a Panchayat Councilor attached to Navapatti Panchayat. He has also deposed before the Trial Court about the surrender of all the seven accused who worked in Thermal Power Plant before the Deputy Superintendent of Police. The evidence of D.Ws.4, 5 and 6 is corroborated by the testimony of D.Ws.1, 2, 7, 9 and 13 referred to above by us. There is no reason to disbelieve such voluminous evidence found on record on the side of defence.

50. At this stage, the learned Additional Public Prosecutor would submit that the attendance register and the acquittance register maintained, admittedly, by the Contractor who allegedly employed these accused, were not produced.

51. Though such registers were not produced before the court, we still find that the testimony of the aforesaid witnesses which stood corroborated is trustworthy and reliable. PW34, the then Superintendent of Police, Salem, who had control over Mettur and Omalur Taluks, has deposed that he remembered to have received petitions from the villagers about the arrest of seven accused for the purpose of taking some action in that respect. He would further depose that the Additional Superintendent of Police, Mr.Palanisamy, enquired into such complaint. But, quite unfortunately, when the said Palanisamy was examined, by the Trial Court, as CW1, he has given very evasive answers saying that he did not remember to have conducted any sort of enquiry on the basis of the petitions given by the villagers as against the arrest of the aforesaid seven accused. We are pained to observe that all is not well with the prosecution as regards the arrest of these seven accused. Some blatant attempt has been made to burke certain facts from the purview of the Trial Court, we are constrained to observe in the above facts and circumstances.

52. The learned Additional Public Prosecutor drew the attention of this court to the authority reported in DALIP SINGH v. STATE OF PUNJAB (1998 SCC SCC (Cri.) 207). The Supreme Court has observed as follows in the aforesaid judgment:-

> "8. Coming now to the defence witnesses, we find that Swaran Singh (DW1) and K.S.Kailey (DW5), Deputy Superintendent of Police and Additional Deputy Superintendent of Police respectively of Ferozepur were examined to testify that they had perused the case diary prepared by the Investigating Officer and interrogated some of the accused and other persons. On their such exercise, they found that three of the accused, namely Dalip Singh (appellant), Shabeg Singh and Arjan Singh were innocent. In our considered view, the Designated Court ought not to have permitted the defence to adduce the above evidence as it is not legally admissible. In Vijender V. State of Delhi a Bench of this Court, of which one of us was a member (M.K.Mukherjee,J.) while dealing with a similar question observed under:
>
> "The result of investigation under Chapter XII of

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> the Criminal Procedure Code is a conclusion that an Investigating Officer draws on the basis of materials collected during investigation and such conclusion can only form the basis of a competent court to take cognizance thereupon under Section 190 (1)(b) Cr.P.C and to proceed with the case for trial, where the materials collected during investigation are to be translated into legal evidence. The trial court is then required to base its conclusion solely on the evidence adduced during the trial; and it cannot rely on the investigation or the result thereof."
>
> We may further add that if the result of investigation was to be made the basis of a court's verdict regarding guilt or innocence of an accused, there would be no need of a trial in a police case for, relying on the report submitted under Section 173(2) Cr.P.C a court would be entitled to decide the fate of the person arraigned. The evidence of D.Ws. 1 and 5 must, therefore, be left out of our consideration. Incidentally, we may mention that in spite of the opinion expressed by the above two superior officers charge-sheet was submitted by the Investigating Officer against the above-mentioned three accused."

That was a case where some superior officers had chosen to peruse the case diary prepared by the investigating officer and having interrogated some of the accused and other persons had come out with a different conclusion from that of the investigating officer. Here, in the case on hand, seven accused were allegedly produced before the Deputy Superintendent of Police by the villagers and justice was sought by sending some petitions to the higher authorities. There is nothing on record to show that such enquiry report was perused by the investigating officer in this case. In fact, CW1 has completely burked such a course adopted by him. It is not an ordinary case where the matrix thereof could have paled from the memory of a police officer. It is a case where five remand accused were butchered and as a consequence, three assailants were shot dead by top police officials. Such a memorable case, would have, definitely, embedded in the mind of a police officer. CW1 has completely shirked his responsibility and stated before the Trial Court that he could not remember any enquiry embarked upon by him on the petitions given by the villagers. If such additional information collected by CW1 had been furnished to the investigating officer, the course of investigation would have taken a different direction as regards these accused. We are concerned with the hiding of the materials surreptitiously by the police officials in connection with the arrest and recovery of the material objects and the consequent doubt writ large in this case. But, the Supreme Court in the aforesaid case dealt with a situation where two parallel investigations, one full-fledged and another a partial one, embarked upon by the police sleuths and the final report armed with telling materials filed by the investigating officer ignoring the result of an offshoot investigation done partially by the superior officers. In the above stated circumstances, we find that the fact situation in the present case is totally

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different from the hard facts in the case dealt with by the Supreme Court.

53. The fact remains that these accused also were identified by P.Ws.1 to 3 in the Test Identification Parade and also before the Trial Court. But, some doubt lingers in our mind about the role of these accused in the crime alleged as against them in the background of the clinching defence evidence referred to above and the suppression of relevant materials in connection with the arrest of the aforesaid accused and recovery of the material objects. Such benefit of doubt will have to be necessarily conferred on these accused.

54. The Trial Court has rightly returned the verdict of acquittal as against A4, A5, A8, A12, A14, A15 and A16. Therefore, we confirm the order of acquittal recorded by the Trial Court as against A4, A5, A8, A12, A14, A15 and A16 and dismiss Criminal Appeal No.669 of 2005 preferred by the State.

55. Criminal Appeal No.140 of 2005:- The first accused has preferred Criminal Appeal No.140 of 2005.

56. Mr.V.Vibhishnan, learned counsel appearing for A1 would vehemently contend that the First Information Report had not been recorded at the time when it had been allegedly recorded. The date seal found on the First Information Report does not synchronize with the date of signature of the learned Judicial Magistrate concerned. The Trial Court failed to give credence to the evidence of Bhuvaneshwari, DW3, wife of A1 to the effect that the first accused was apprehended only at Tirupur and not at the place spoken to by the prosecution witnesses. P.Ws.1 to 3 have stated that unknown persons attacked them, caused damage to the vehicle and murdered the remand accused. The investigating officer, PW35, would state that P.Ws.1 to 3 have not disclosed to him that the deceased Natarajan ever informed them that Kooli Nagarajan (A1) and his gang had descended at the scene of occurrence. The Yamaha vehicle alleged to have been used by the first accused was not recovered. A Grade I Constable has not only recorded the First Information Report, but, registered the same and authored many a document in this case. Therefore, he would contend that the first accused will have to be given the benefit of doubt.

57. The learned Additional Public Prosecutor would contend that P.Ws. 1 to 3 have categorically deposed before the court that A1 was one of the assailants who participated and committed the ghastly crime as alleged against him. It is his submission that the Yamaha motorcycle was recovered, but, of course the same was not produced before the court. The First Information Report reached the court within a short span of time and therefore, the First Information Report is beyond the pale of any doubt. As the injured Natarajan had already been taken to the hospital for treatment, he had the privilege of giving First Information Report to the Sub Inspector of Police K.Gowthaman, PW32. There is nothing wrong in recording the

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statements of the injured witness by a Grade I Constable. His association during the course of investigation does not prejudice the interest of the accused. The Trial Court has rightly recorded the conviction and sentence of the first accused, he would lastly contend.

58. On a perusal of the wound certificates Ex.P69, P70 and P71 issued to P.Ws.1 to 3 respectively, it is found that PW1 was admitted to hospital at 7.00 pm, PW2 at 7.10 pm and PW3 at 7.20 pm on 29.10.1997. Esak, PW17 has categorically stated that on receipt of information, he went to the scene of occurrence and retrieved P.Ws.1 to 3 and admitted them to hospital for treatment. Dr.John Gurupatham, PW30 has given treatment to the injured Natarajan and issued wound certificate Ex.P96. Though P.Ws.1 to 3 have stated that unknown persons participated in the occurrence, the injured Natarajan has stated before Dr.John Gurupatham, PW30 that four known persons and some more unknown persons participated in the occurrence. The wound certificates further reveal that the injured Natarajan was admitted to hospital for treatment at 5.25 pm itself. Within 45 minutes, he had been taken to the hospital for treatment. Of course, it has been recorded in the wound certificate Ex.P96 that one Selvaraj, a Constable attached to K.Kudal Police Station accompanied the injured Natarajan. Unfortunately, the said Selvaraj was not examined before the court. But, such a lapse does not persuade us to disbelieve the testimony of Dr.John Gurupatham PW30 who issued the wound certificate Ex.P96.

59. The First Information Report, Ex.P59 has been recorded by Gowthaman PW32 through the Head Constable, PW24. Both of them have stated that as the injured Natarajan was not in a position to reduce his version in writing, Pachamuthu, PW24 helped him to script the First Information Report. On a careful perusal of Ex.P59 it is found that the said report was registered at 6.20 pm on 29.10.1997. The learned Judicial Magistrate has received the said report along with the printed First Information Report, Ex.P100 at 8.25 pm on 29.10.1997 itself. Within a few hours, the vital documents had reached the learned Judicial Magistrate, Omalur. Of course, the seal of the court bears the date 4.11.1997. On a perusal of the calendar for 1997, it is found that there had been intervening holidays and therefore, the seal of the court had been affixed on the First Information Report and the printed copy thereof on 4.11.1997.

60. Everyone, who has sustained injury in the occurrence, would try to reach a hospital at the earliest point of time availing the mode of transport and the manpower at his command. P.Ws.1 to 3 are Constables served under the deceased Natarajan. Considering the status of the injured Natarajan, he would have been taken to hospital first in point of time. Just because the person who accompanied the injured Natarajan was not examined before the court, we cannot throw away the evidence of the prosecution that the First Information Report was given by the injured Natarajan at 6.20 pm on 29.10.1997 and the same reached the learned Judicial Magistrate at 8.25 pm on the said date. The supply of copy of the printed First Information Report within a short while to the First Informant by PW32 also does not give rise to any doubt as

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the hospital, the court premises and the police station are located very close by in Omalur.

61. Of course, Bhuvaneswari, DW3 wife of A1 Nagarajan has stated that her husband was apprehended at Tirupur. The alleged attack launched by the police party immediately after the arrest of the first accused might give rise to a different of cause of action, but, that will not definitely relieve A1 from the charge of murder. There might have been some lapse on the part of the investigating agency in effecting the arrest of A1 in accordance with the process of law, but, when ocular testimony is there, we cannot simply give safe passage to the first accused. P.Ws. 1 to 3 have deposed before the court that the name of the first accused was referred to during the course of occurrence many an occasion. Though PW35 has contradicted the version of P.Ws.1 to 3 that they did inform PW35 during the course of interrogation that the deceased Natarajan informed them that Kooli Nagarajan accompanied by his gang had descended at the scene of occurrence, it is found from his evidence that P.Ws.1 to 3, during the course of subsequent interrogation, did mention the name of the first accused as the core accused who perpetrated the crime at the scene of occurrence. P.Ws.4, 5 and 6, who are independent witnesses to the occurrence, have deposed that the first accused also participated in the occurrence. Of course, the motorcycle had been recovered by PW35, but, unfortunately, the same had not been produced before the court for scrutiny. P.Ws.4, 5 and 6 have also categorically deposed that it was the first accused who sped away from the scene of occurrence after committing the crime riding the motorcycle as pillion rider. Inspite of searching cross-examination done by the defence, the evidence of P.Ws.4, 5 and 6 could not be impeached. Their testimony lends corroboration to the evidence of P.Ws.1 to 3. Of course, PW24 has assisted PW32 in recording the First Information Report and effectively assisted the process of investigation. There is no legal bar for a Grade I Constable to assist the investigating officer in a case of this magnitude.

62. We are convinced with the available evidence on record that the first accused also was a member of the unlawful assembly and having intercepted the police escort jeep, threw country bomb and committed the murder of the five remand prisoners along with other accused. There is no warrant for interference with the judgment of conviction and sentence recorded by the Trial Court as against the first accused. Therefore, the Criminal Appeal No.140 of 2005 stands dismissed.

63. It is found that the Trial Court has chosen to convict all the accused for offence under section 302 IPC (five counts) and impose life sentence to run consecutively. We are not in agreement with such an imposition of consecutive sentence of life on the accused. It is relevant to refer to the provisions of section 31 of the Code of Criminal Procedure, 1973 which reads as follows:-

> **"Sentence in cases of conviction of several offences at one trial.--**(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian penal Code (45 of 1860), sentence him

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for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that--

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence."

The proviso to sub-section (2) of section 31 referred to above mandates that an accused cannot be sentenced to imprisonment for a longer period than fourteen years. The consecutive sentence that is imposed by the Court can be subject to the proviso detailed hereinabove. Further, there cannot be two terms of life for an individual. In that sense also, it will be ludicrous to order consecutive sentence of life.

64. In view of the above, setting aside the conviction recorded as against A7, A3 and A13 in S.C.No.34 of 1999, they are acquitted of all the charges and they are set at liberty if their custody is not required in connection with any other case and the bail bonds executed by them shall stand discharged and as a result, Criminal Appeal Nos.1439 of 2004, 195 of 2005 and 290 of 2005 stand allowed, confirming the order of conviction as against A1, A6 A9, A10, A11, A17 and A18 in S.C.No.34 of 1999, Criminal Appeal Nos.140 of 2005, 1032 of 2006, 15 of 2007, 162 of 2005, 1412 of 2004 and 1395 of 2004 stand dismissed but, the sentence for the conviction recorded by the Trial Court under section 302 IPC (five counts) as against A1, A6 A9, A10, A11, A17 and A18 shall run concurrently and not consecutively as ordered by the Trial Court and confirming the order of acquittal recorded by the Trial Judge as against A4, A5, A8, A12, A14, A15 and A16, Criminal Appeal No.669 of 2005 preferred by the State stands dismissed.

Ssk.

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Sub Asst.Registrar

To

1. The I Additional Sessions Judge, Salem. (with records)

2. Do Through The Principal Sessions Judge, Salem.

3. The Judicial Magistrate, Omalur.

4. Do Through The Chief Judicial Magistrate, Salem

5. The Inspector of Police, Omalur Police Station.

6. The Public Prosecutor, High Court, Chennai.

7. The Superintendent Central Prison, Coimbatore.

8. The Superintendent Central Prison, Salem

9. The District Collector, Salem.

10. The Director General of Police, Chennai 4.

+ 2 ccs to Mr. K. V. Sridharan, Advocate SR No. 5892

Crl.Appeal
Nos.1395/2004, etc.

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SR/13.2.2007

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